

Exhibit A

Requested Clarifications

These clarifications have been incorporated into Exhibit D (Land Use Ordinance) and Exhibit E (Coastal Zone Land Use Ordinance), along with the revisions presented in Exhibit H of the January 26, 2010 staff report.

1) “Grading” includes removal of vegetation for rangeland management purposes.

Grading. For the purposes of this Chapter¹, "grading" is defined as all new earthwork that involves one or more of the following activities: excavations, cuts, fills, dams, reservoirs, levees, impoundments, diking, dredging, borrow pits, stockpiling, or compaction of fill; or removal of vegetation for the purposes of rangeland management. A grading permit is required in any of the following cases:

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.060A	C-1-53 (top of page)	Exhibit D, Page 11
23.05.030.a	C-1-124 (bottom of page)	Exhibit E, Page 10

2) The native vegetation removal threshold applies to a “site,” and is only triggered when one-half acre or more of bare soil is present.

Removal of native vegetation. Rangeland management projects which would involve more than one-half acre of native vegetation removal on a site, except in the following circumstances:

- a. When the project goes through the alternative review process, pursuant to Section 22.52.080; or
- b. When the project complies with the ongoing grazing exemption discussed in Section 22.52.070B.11.b.

Native vegetation removal is calculated based on the total area of a site which will lack soil cover (i.e. “bare soil”) at any given time. Areas subject to previous native vegetation removal are not included in this calculation where permanent revegetation has already achieved a minimum of 70 percent coverage.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.060A.3	C-1-53 (center of page)	Exhibit D, Page 11
23.05.030.a(3)	C-1-125 (top of page)	Exhibit E, Page 11

¹ CZLUO version – “this Chapter” is replaced with “the Grading Ordinance”

3) Piecemealing a project to avoid triggering the threshold is not allowed.

Add the following note at the bottom of Section 22.52.060A / 23.05.030.a, just before the start of the next subsection (“Additional permitting requirements”):

Note: The grading thresholds specified in Subsections A.1 and A.2 above are to be measured cumulatively for each project. A project may not be broken down into smaller components with the intention of avoiding a grading permit. Activities progressing towards a common endeavor are considered a single project.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.060A	C-1-53 (center of page)	Exhibit D, Page 11
23.05.030.a	C-1-125 (top of page)	Exhibit E, Page 11

4) The County is not requiring that applicants contact state agencies.

Note: While the activities under this section are exempted from a grading permit for the purposes of this County’s ordinance, ~~it is the owner’s and/or applicant’s responsibility to contact all the owner and/or applicant should understand that permits may be required by~~ other regulatory agencies, including, but not limited to, the California Department of Fish and Game, Regional Water Quality Control Board, Army Corps of Engineers, U.S. Fish and Wildlife Service, or the California Department of Forestry (Cal Fire) ~~to ensure the activities comply with their permit or license requirements.~~

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.070	C-1-54 (top of page)	Exhibit D, Page 12
22.52.080	C-1-58 (top of page)	Exhibit D, Page 16
23.05.032	C-1-126 (center of page)	Exhibit E, Page 12
23.05.034	C-1-131 (top of page)	Exhibit E, Page 17

5) Drainage improvements are also allowable under the ongoing agricultural exemption (existing fields) and under agricultural grading (new fields).

- a. For grading activities related to crop production, the proposed grading is limited to preparing a field for a crops and associated drainage improvements on land that has been previously cultivated within the previous five years or covered under a conservation plan prepared as part of the Conservation Reserve Program. Cultivation shall include the following practices: disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling.
- b. For grading activities related to range management for commercial livestock production, the grading is limited to the following activities: vegetation management, such as reseeding or vegetation modification; or livestock watering systems and associated drainage improvements other than ponds or reservoirs. To qualify for this exemption, these activities shall take place only on land where grazing has occurred within the previous five years.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.070B.11.a and 22.52.070B.11.b	C-1-56 (center of page)	Exhibit D, Page 14
23.05.032.b(11)(i) and 23.05.032.b(11)(ii)	C-1-129 (center of page)	Exhibit E, Page 15

Crop production. Grading to prepare new land for crop production, including drainage improvements, on slopes with a natural gradient less than thirty percent where no off-site fill is proposed. Importation and exportation of commercial soil amendments as specified in Subsection B.11.c is permissible under this exemption.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.070C.2a	C-1-53 (center of page)	Exhibit D, Page 15
23.05.032.c(2)(i)	C-1-125 (top of page)	Exhibit E, Page 16

6) Exportation of soil fertility amendments is permissible under the ongoing agricultural exemption.

All site work shall be balanced. No importation or exportation of fill material from/to off-site parcels shall occur. These fill materials include topsoil, sand, and biosolids. The incorporation importation or exportation of soil fertility amendments to enhance crop production or rangeland fertility is permissible under this exemption. Soil fertility amendments include materials described in the California Food and Agricultural Code Sections 14511 et seq. (excluding Sections 14552(e) and 14560).

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.070B.11.c	C-1-56 (center of page)	Exhibit D, Page 14
23.05.032.b(11)(iii)	C-1-129 (center of page)	Exhibit E, Page 15

7) Internal roads within a field shall also qualify for the ongoing agricultural exemption.

The grading does not involve construction of or modification to dams, ponds, reservoirs, or roads; however, farm roads located entirely within or on the edge of existing fields may be modified or re-oriented under this exemption.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.070B.11.e	C-1-56 (center of page)	Exhibit D, Page 14
23.05.032.b(11)(v)	C-1-129 (center of page)	Exhibit E, Page 16

8) The routine maintenance exemption includes maintenance to ponds and equestrian facilities, and importation of material.

Routine maintenance. Routine maintenance of legally established existing (exempt or previously permitted) roads; man-made, engineered flood control channels or levees; agricultural ponds and reservoirs; existing agricultural drainage channels; agricultural water lines; equestrian facilities (e.g. paddocks and arenas); and public utility lines (as provided by Subsection B.10); where the width, length, or design capacity is not increased. Material may be imported under this exemption when used for routine maintenance purposes only.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.070B.12	C-1-56 (bottom of page)	Exhibit D, Page 15
23.05.032.b(12)	C-1-129 (bottom of page)	Exhibit E, Page 16

9) Erosion and sedimentation control devices shall prevent sediment from entering rivers.

Effective erosion and sedimentation control measures shall be used on all cut and fill slopes in compliance with Section 22.52.150C² to protect, restore and revegetate within 45 days after the completion of work or before October 15 and shall be continually maintained for the life of the project. This 45 day period may be extended where work is completed earlier in the year and an extension is necessary for rainfall to assist onsite revegetation. All erosion and sedimentation control measures shall be consistent with the Low Impact Development (LID) Handbook and shall designed to prevent sediment from entering any blue-line stream, river, pond, lake, wetland, bay, or the ocean.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.070C.1.c	C-1-57 (center of page)	Exhibit D, Page 15
23.05.032.c(1)(iii)	C-1-130 (center of page)	Exhibit E, Page 16
Revision 2	C-1-172	N/A

10) “New agricultural roads” includes extending the length or width of existing roads.

New agricultural roads. New roads, or expansion to the length or width of existing roads, which providing provide access to farm fields, pastures, water supplies, outdoor equipment or supply storage areas, livestock grazing areas, fence lines, or an agricultural structure which does not require a county building permit (agricultural exempt structure). New roads shall be the minimum width necessary for the planned agricultural use (generally between 12 and 16 feet in width), consistent with the determination made under Subsection A.5. The road shall not supply access to a habitable structure. Ford crossings (i.e. “Arizona” crossings), as determined to be appropriate by the Agricultural Commissioner, may be included in the construction of new agricultural roads.

² CZLUO reference is 23.05.048.c

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.080B.3	C-1-59 (top of page)	Exhibit D, Page 17
23.05.034.b(3)	C-1-132 (top of page)	Exhibit E, Page 18

11) Emergency provisions may include work needed to save an agricultural crop.

Emergency work. Section 22.62.080³ establishes the procedures for issuance of emergency permits in situations that constitute an emergency. Corrections, remedies and repairs made necessary by an emergency situation involving the sudden, unexpected occurrence of a break, rupture, flooding or breach of an existing facility which presents an immediate threat to life, health or property, may be made as required before the grading permits are applied for or issued. For the purposes of this Chapter, a threat to property may include potential damage to agricultural crops. Written notification and a description of the work shall be submitted to the Director as provided by Section 22.62.080⁴. Permits for emergency work shall be applied for within 15 days of commencement of work. This shall include emergency work done under the Emergency Watershed Protection Program in cooperation with the USDA Natural Resources Conservation Service and the Resource Conservation Districts.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.090C.2	C-1-61 (center of page)	Exhibit D, Page 19
23.05.036.c(2)	C-1-134 (bottom of page)	Exhibit E, Page 21

12) Grading contractors are also liable for grading violations.

Any person, firm, contractor, or corporation whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any provision of this Chapter⁵ is subject to civil and/or criminal action. The Board of Supervisors hereby declares that any grading done contrary to the provisions of this Code is unlawful and a public nuisance, subject to abatement as described in Section 22.74.150⁶. The offense may be filed as either an infraction or a misdemeanor at the discretion of the San Luis Obispo County District Attorney.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.190C.1	C-1-106 (bottom of page)	Exhibit D, Page 65
23.05.056.c(1)	C-1-234 (top of page)	Exhibit E, Page 67

³ CZLUO reference is 23.03.045

⁴ CZLUO reference is 23.03.045

⁵ CZLUO version – “this Chapter” is replaced with “the Grading Ordinance”

⁶ CZLUO reference is 23.10.150

Any person, firm, contractor, or corporation whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or causes the same to be done, contrary to or in violation of any provision of this Chapter⁷ shall be subject to injunction against such activity and shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day that the violation continues to exist.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.190D.1	C-1-107 (bottom of page)	Exhibit D, Page 66
23.05.056.d(1)	C-1-235 (top of page)	Exhibit E, Page 68

13) Education and outreach includes farmers and ranchers.

Outreach and Public Education. A formal outreach and public education program shall be implemented to reach the broadest possible audience, including grading contractors, heavy equipment operators, farmers and ranchers, and other professionals involved in grading and/or earthwork. This program shall include, but shall not be limited to, informational handouts, webpage information, and notification of requirements distributed with construction and land use permits.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.52.200A	C-1-109 (bottom of page)	Exhibit D, Page 68
23.05.057.a	C-1-237 (top of page)	Exhibit E, Page 69

14) “Native Vegetation” and “Rangeland Management” are defined.

Add the definition of “Native Vegetation” into Chapter 22.80 and 23.11:

Native Vegetation. Plants such as trees, shrubs, herbs, and grasses that grew naturally in San Luis Obispo County before European arrival; plants from other parts of the United States or from other countries are not considered native.

Add the definition of “Rangeland Management” into Chapters 22.80 and 23.11:

Rangeland Management. Any modifications to the land designed to improve forage for domesticated livestock.

SECTIONS AFFECTED		
SECTION NUMBER	PREVIOUS STAFF REPORT	CURRENT PAGE NUMBER
22.80.030	C-1-111	Exhibit D, Page 70
23.11.030	C-1-238	Exhibit E, Page 70

⁷ CZLUO version – “this Chapter” is replaced with “the Grading Ordinance”